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December 17, *2002*

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VIA HAND DELIVERY

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RECEIVED

DEC 17 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: CC Docket No. 00-218

Dear Ms. Dortch:

Enclosed for filing please find an original and four copies of the foregoing Opposition of WorldCom, Inc. to Verizon's Application Tor Review of the Wireline Competition Bureau's October 8, 2002 Order Approving the Interconnection Agreements, and WorldCom's Request for Extension of Period for Filing an Opposition to an Application for Review Also enclosed are eight copies for the arbitrator. An extra copy is enclosed to bc file-stamped and rclumcd.

If you have any questions, please do not hesitate to call me at 202-639-6058. **Thank** you very much for your assistance with this matter.

Very truly yours.

Jodie L Kelley mm

Jodie L. Kelley

Encl

0+4

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition of WorldCom, Tnc. Pursuant to Section 252(e)(5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	)	CC Docket No. 00-218
In the Matter of Petition of Cox Virginia Telecom, Inc., Pursuant to Section 252(e)(5) of the Communications Act for Prcemption of the Jurisdiction of the Virginia State Corporation Commission Regarding lnterconnection Disputes with Verizon Virginia Inc. and for Arbitration	)	CC Docket No. 00-249
In the Matter of Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc.	)	CC Docket No. 00-251

REQUEST FOR EXTENSION OF PERIOD FOR FILING AN OPPOSITION TO AN APPLICATION FOR REVIEW

WorldCom, Inc. ("WorldCom") respectfully requests that the deadline for filing an opposition to the Application for Review of the Wireline Competition Bureau's October 8, 2002 Order Approving the Interconnection Agreements filed by Verizon in the above-captioned docket be extended from November 22,2002 to December 17, 2002. This Commission's rules ordinarily establish a fifteen day period for filing oppositions to applications for review. **See** 47 C.F.R. §1.115(d). WorldCom did not submit an opposition within the fifteen-day period because Verizon's Application For Review simply incorporates and summarizes the Reconsideration

Petition, and WorldCom set forth the grounds for rejecting those arguments in its Opposition to Verizon's Reconsideration Petition. ***See*** Opposition Of WorldCom, Inc. To Verizon's Petition For Clarification And Reconsideration Of July 17, 2002 Memorandum Opinion And Order ("Reconsideration Opposition") (filed Sept. 10, 2002). However, WorldCom has since learned that both AT&T and Cox filed oppositions to the Application for Review. In the interest of having a complete record, and to protect its rights to appellate review, WorldCom respectfully requests leave to file the enclosed Opposition To Verizon's Application For Review. Granting WorldCom an extension of the tiling deadline would not prejudice the parties or unduly delay Bureau or Commission review of the pending petitions because WorldCom's Opposition to the Application for Review incorporates the arguments presented in WorldCom's Reconsideration Opposition, and presents no new legal arguments or evidence. It would therefore be appropriate to allow WorldCom to submit the enclosed Opposition at this time.

Respectfully submitted,

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***Counsel** for WorldCom, Inc.*

CERTIFICATE OF SERVICE

I hereby certi that true and accurate copies of the foregoi Requ st for Extensic of Period for Filing an Opposition to an Application for Review were delivered this 17th day of December, 2002, by email and in the manner indicated below, to:

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition of WorldCom, lnc. Pursuant to Section 252(e)(5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	CC Docket No. 00-218
In the Matter of Petition of Cox Virginia Telccom, Inc., Pursuant to Section 252(e)(5) of the Communications Act for Prcemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc. and for Arbitration	CC Docket No. 00-249
In the Matter of Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preetnption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc.	CC Docket No. 00-251

OPPOSITION OF WORLDCOM, INC. TO VERIZON'S APPLICATION FOR REVIEW OF THE WIRELINE COMPETITION BUREAU'S OCTOBER 8,2002 ORDER APPROVING THE INTERCONNECTION AGREEMENTS

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Counsel for WorldCom, Inc.

Dated: December 17. 2002

Pursuant to Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115, WorldCom, Inc. ("WorldCom") respectfully submits this Opposition to Verizon's Application for Review of the Wireline Competition Bureau's October 8, 2002 Order Approving the Interconnection Agreements.[1] CC Docket Nos. 00-218, *et al.* (filed Nov. 7, 2002) ("Application for Review"). In that petition, Verizon alleges that the WorldCom-Verizon interconnection agreement violates the Telecommunications Act of 1996 ("the Act") because it contains provisions that implement the rulings that Verizon challenged in its Petition for Reconsideration of the Bureau's July 17, 2002 Order.[2] *See id.* at 3-5. The Application for Review does not repeat the substantive arguments Verizon presented in its Reconsideration Petition, but instead incorporates and briefly summarizes them.[3] *See id.* at 4-5.

For the reasons set forth in WorldCom's Opposition to Verizon's Reconsideration Petition,[4] the Bureau's resolution of the disputed issues was fully consistent with binding law and Commission precedent, and Verizon's challenges to the *Arbitration Order* are uniformly meritless. *See* Opposition Of WorldCom, Inc. To Verizon's Petition For Clarification And Reconsideration Of July 17, 2002 Memorandum Opinion And Order (filed Sept. 10, 2002) (attached hereto as Exhibit A). Several of Verizon's claims rely upon new factual assertions, new arguments, and/or new contract language, which cannot be considered at this late stage

---

[1] *In Re Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration,* 02-2576 (rel. Oct. 8, 2002) *("Approval Order").*

[2] *In Re Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration,* CC Docket Nos. 00-218, 00-249, 00-251, DA 02-1731 (rel. July 17, 2002) *("Arbitration Order").*

[3] Verizon filed its Application for Review as a protective measure, to ensure that it ultimately may obtain Commission review of the issues raised in the pending petitions for reconsideration, and application for review, of the *Arbitration Order*. *See* Application for Review at 2, 4.

[4] The arguments presented in that pleading are incorporated herein,

without violating Commission rules, the requirements of the Administrative Procedures Act, and principles of due process. *See id.* at 2-6. The remainder of Verizon's assertions are inconsistent with Commission precedent, relevant law, and record evidence. *See id.* at 6-37. Because Vcrizon's Reconsideration Petition failed to provide any grounds for modifying the *Arbitration Order,* the interconnection agreement provisions implementing that decision are lawful. There is therefore no reason to disturb the *Approval Order,* or to modify the interconnection agreement, and Verizon's Application for Review should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing Opposition of WorldCom, Inc. to Verizon's Application for Review of the Wireline Competition Bureau's October 8, 2002 Order Approving the Interconnection Agreements were delivered this 17th day of December, 2002: by email and in the manner indicated below, to:

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EXHIBIT A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	)	CC Docket No. 00-218
In the Matter of Petition of Cox Virginia Telecom, Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virigina Inc. and for Arbitration	)	CC Docket No. 00-249
In the Matter of Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc.	)	CC Docket No. 00-251

OPPOSITION OF WORLDCOM, INC. TO VERIZON'S PETITION FOR CLARIFICATION AND RECONSIDERATION OF JULY 17,2002 MEMORANDUM OPINION AND ORDER

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TABLE OF CONTENTS

INTRODUCTION AND SUMMARY 1

ARGUMENT 6

I VERIZON'S PROPOSAL TO IMPOSE A DIRECT TANDEM TRUNKING REQUIREMENT AT ALL TANDEMS IN A LATA MUST BE REJECTED (ISSUE 1-4) 6

II. THE ARBITRATOR PROPERLY REJECTED VERIZON'S ATTEMPT TO IMPOSE USE RESTRICTIONS ON WORLDCOM'S PURCHASE OF DEDICATED TRANSPORT (ISSUE IV-6) 11

III. THE ARBITRATOR CORRECTLY DETERMINED THAT NPA-NXX'S SHOULD BE USED TO DETERMINE WHETHER A CALL IS LOCAL OR TOLL. (ISSUE 1-6) 16

A. Verizon's Request for Reconsideration Must be Denied Because it Relies on "Evidence" That is Not Part of This Record and Cannot be Considered 16

B. Verizon's "Legal" Arguments are Meritless 17

C. Verizon's Newly Proposed Suggestion That FX Traffic Delivered To *An* ISP Should Be Excluded From the Intercarrier Compensation Regime Established In the *ISP-Remand Order* Must be Rejected 21

IV. THE ARBITRATOR'S CONCLUSION THAT WORLDCOM IS ENTITLED TO THE TANDEM INTERCONNECTION RATE WAS CORRECT 23

V. VERIZON'S BELATED REQUEST FOR A "DARK FIBER RESERVATION RATE' SHOULD BE DENIED 27

VI. THERE IS NO BASIS FOR RECONSIDERATION OF THE ARBITRATOR'S DECISION ON SPECTRUM MANAGEMENT (ISSUE IV-14) 28

VII THE TEN CALENDAR DAY PERIOD FOR SUBMITTING INVOICES IS LAWFUL, BUT WORLDCOM IS WILLING TO ACCEPT VERIZON'S PROPOSED TEN BUSINESS DAY INTERVAL (ISSUE IV-74) 33

VIII. **VERIZON'S CHALLENGE TO THE ASSURANCE** OF **PAYMENT PROVISION SHOULD** BE **DENIED (ISSUE IV**-1 (N) **35**

CONCLUSION 37

INTRODUCTION AND SUMMARY

Pursuant to Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106(g), WorldCom, Inc. ("WorldCom") respectfully submits this Opposition to Verizon's Petition for Clarification and Reconsideration of July 17, 2002 Memorandum Opinion and Order,[1] CC Docket Nos. 00-218, *et al.* (filed Aug. 16, 2002) ("Pet. for Recon.").

Several principles of law inform the inquiry to be made when assessing Verizon's requests. First, Verizon frequently asserts that the decisions rendered are inconsistent with the Commission's rules. But the Wireline Competition Bureau (the "Bureau") is uniquely situated to determine what the Commission's current rules mean. Indeed, well established principles of administrative law hold that deference to an agency decision is at its zenith when the agency is deciding the scope and meaning of its own rules. *See, e.g.*, *Auer v. Robbins*, 519 U.S. 452, 461 (1997) (noting that agencies are entitled to deference when interpreting own regulations and that such interpretations are controlling unless "plainly erroneous or inconsistent with the regulation"); *Lyng v. Payne*, 476 U.S. 926, 939 (1986) ("[A]n agency's construction of its own regulations is entitled to substantial deference"); *Global Crossing Telecomms., Inc. v. FCC*, 259 F.3d 740, 746 (D.C. Cir. 2001) (courts "must defer to an agency's reading of its own regulations unless that reading is plainly erroneous or inconsistent with the regulations. . . [and] must accord deference to an agency's reasonable interpretation of its own precedents") (internal citations omitted); *Cassell v. FCC*, 154 F.3d 478, 483 (D.C. Cir. 1998) (describing deference due to agency's interpretation to its own precedent).

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[1] *In Re Petition of WorldCom, Inc Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbiiration.* CC Docket Nos. 00-218, 00-249, 00-251, DA 02-1731 (rel. July 17.2002) *("Arbitration Order").*

Second, a number of Venzon's challenges rest on factual assertions, and arguments that the Arbitrator misunderstands the relevant facts. But the Arbitrator heard the evidence, and is best situated to make factual judgments. *It* is for this reason that courts reviewing arbitration decisions such as the one at issue here have uniformly held that the factual decisions of the relevant commissions are entitled to great deference, and may only be overturned if the rulings are arbitrary and capricious. ***See, e.g., MCI Telecommunications Corp. v. Bell Atlantic-Pennsylvania***, 271 F.3d 491 (3d Cir. **2001);** *Southwestern* **Bell** *Tel. Co.* **v. Waller Creek Communications, Inc., 221** F.3d 812,816 **(5th** Cir. 2000); *GTE South* **v. Morrison,** 199 F.3d 733, 745-46 (4th Cir. 1999); ***AT&T Communications of Virginia.*** *Inc.* **v. Bell Atlantic-Virginia. 197** F.3d ***663,*** 668 (4th Cir. 1999); ***see also GTE South*** *v.* ***Morrison,*** 199 F.3d at 745 (state commission factual findings must be upheld if supported by substantial evidence in **the** record); *MCI Telecommunications* **Corp.** *v. U S* **West Communications,** 204 F.3d 1262, 1266-67 (9th Cir. 2000) (same).

As explained in further detail in the section addressing Venzon's individual claims, Verizon's petition raises issues that are uniformly meritless. Perhaps even more troubling, however, although the record **is** closed, Verizon continues to inject new factual assertions, entirely new arguments and new contract language despite the fact that it is unquestionably irnpropcr **for** it to do so. **The rules** established for this proceeding, the rules of the Commission, the requirements of the Administrative Procedures Act **("APA"),** and the requirements of due process all mandate that **the** Commission strike

any new factual assertions, and decline to address the new arguments and contract language proposed by Verizon.[2]

The Due Process Clause of the Fifth Amendment of the U.S. Constitution requires that a party not *be* deprived of "life, liberty, or property without due process **of law."** U.S. Const. amend V. In the context of agency decisionmaking, this requires a party to be given an opportunity to respond both to proposals, and evidence submitted in support of such proposals. The Administrative Procedures Act imposes similar requirements. Because Venzon has attempted to inject new proposals **well after** the time within which WorldCom can submit evidence and cross-examine Verizon's witnesses, both the Due Process Clause and the **APA** require that such proposals be struck. Indeed, if the Commission were to consider them at **this** juncture, that decision would constitute reversible error.

Almost seven decades ago. the Supreme Court recognized that "[t]he right to a hearing embraces not only the right to present evidence, but also a reasonable opportunity to know the claims *of* the opposing party and to meet them." ***Morgan v. United States***, 304 U.S. 1, **18** (1938). The Court reitcrated the critical importance of a party's ability to fairly address relevant claims in *Bowman* ***Tramp., Inc. v. Arkansas-Best Freight System, Inc.*, *419*** U.S. 281 (1974). stating:

> A party **is** entitled, of course, to know the issues on which decision will turn and to be apprised of the factual material on which the agency relies for decision so that he may rebut it. Indeed, the Due Process Clause forbids an agency to use evidence in a **way** that forecloses an opportunity to offer a contrary presentation.

[2] WorldCom notes **that Cox** Virginia Telecom, Inc. has filed a "Motion to Strike the Declaration *of* William **Munsell** and Other Inappropriate **New** Matter." WorldCom **is in** complete **accord** with the **arguments made** hy **Cox** in that pleading, and adopts those arguments as if **fully** set **forth** herein.

Id. at 288 n.4; see ***also Ralpho v. Bell,*** 569 F.2d 607,628 (D.C. Cir. 1977) ("[a]n opportunity to meet and rebut evidence utilized by an administrative agency has long been regarded as a primary requisite of due process").

Similar requirements are imposed by the Administrative Procedures Act. The APA provides. ***inferalia,*** that a "reviewing court shall ... (2) hold unlawful and set aside agency action, findings, and conclusions found to be - **(A)** arbitrary, capricious, an abuse ofdiscretion, or otherwise not in accordance with law.. . **[or]** (E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute." 5 **U.S.C.§§** 706(2)(A), 706(2)(E). Encapsulated within these mandates is a requirement that the facts on which an agency bases its decision are sufficient, and that other parties have had the opponunity to respond to such submissions. *See generally City of New Orleans v. SEC,* 969 F.2d 1163, 1167 (D.C. Cir. 1992); ***accord CNA Fin. Corp. v. Donovan,*** 830 F.2d 1132, 1159-60 (D.C. Cir. 1987) **("A** precept fundamental to the administrative process is that a party have an opportunity to refute evidence utilized by the agency in decisionmaking affecting his or her rights.").

This Commission's rules create a limited exception to these requirements in petitions for reconsideration. A party may raise arguments that rely on new facts in a reconsideration petition ***only*** if the new factual determinations "relate to events which have occurred or circumstances which have changed since the last opportunity *to* present such matters," 47 C.F.R. §1.106(b)(2)(i); *see id.* §1.106(c)(1); if they were "unknown to petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned by such opportunity," *id.*

§1.106(b)(2)(ii); ***see id.*** §1.106(c)(1); or if the party demonstrates that consideration of the new facts is "required by the public interest." ***Id.*** § 1.106(c)(2). Verizon's reconsideration petition does not even purport to meet these smngent requirements, and Verizon has failed to articulate any intervening events, changed circumstances, prior lack of knowledge, or public interest concerns that would warrant consideration of the newly minted facts included in its arguments.' Verizon's effort to raise new facts thus finds no support in Rulc 1.106.

Thus, wcrc the Commission to allow Venzon to introduce new proposals at this late stage, both the Due Process Clause and the **AFA** would be violated. First, WorldCom has had no reasonable opportunity to address Verizon's proposals. **All** opportunity to present direct evidence and to cross-examine witnesses has long since passed. Similarly, allowing Verizon to alter its proposals ***after*** all testimony has been submitted, and ***after*** the hearings in this matter have concluded would be fundamentally arbitrary and capricious. Indeed. it would render these proceedings largely irrelevant with respect to these new proposals.

In addition to violating due process requirements and being arbitrary and capricious, Verizon's attempt to inject new proposals at this point also violates the Commission's procedural order. In that Order, the Commission made clear new evidence could not be introduced even ***during the hearing*** (much **less** after a decision in the case has been rendered): "No party may introduce an exhibit (including expert reports) or call a **witness *unless the exhibit or*** *witness* **was** *identified in* ***that party's*** *pre-hearing submission*, except for good **cause** shown." ***Procedures Established for Arbitration*** *of*

' Verizon **dues include a conclusory assertion that** the **Munsell Declaration meets these requirements. Pet. For Recon. at 22n.49, but fails to explain** how it **does so.**

Interconnection Agreements Between Verizon and AT&T, Cox. and WorldCom, 16 F.C.C.R. 3957, **3946** (2001) (emphasis added). This makes clear that, at a minimum, the parties' proposals should have come to rest by the time the hearing began.

Accordingly, the Commission should decline to address **any** new proposal or evidence introduced by Verizon at this stage of the proceeding. The remainder of Verizon's requests are inconsistent with Commission precedent, relevant law, and record evidence. Accordingly, all of Verizon's arguments should be rejected.

ARGUMENT

1. VEFUZON'S PROPOSAL TO IMPOSE A DIRECT TANDEM TRUNKING REQUIREMENT AT ALL TANDEMS IN A LATA MUST BE REJECTED (ISSUE I-4).

Verizon first **asks** the Arbitrator to revise its decision with respect to end office trunking. Verizon's request should be rejected for two, independent reasons. First, although Verizon asserts that it seeks to "clarify" its agreement with WorldCom, in fact it is an attempt to relitigate an entirely different issue – its GRIPs proposal – that the Arbitrator squarely, and appropriately rejected. **If** Verizon's request is somehow not deemed merely a rehash of that rejected proposal, it would be a **request** for an entirely new requirement that was not proposed during the arbitration. For these reasons alone, the Arbitrator must reject Verizon's request. In any event, even if this matter were properly beforc the Arbitrator, Verizon's request is meritless. In its proposal on ***this issue,*** WorldCom *voluntarily* ***agreed*** *to* a solution (direct end-office trunking at the DS-1 threshold) that goes beyond the requirements of **existing law – as** evidenced by the fact that the Arbitrator declined to **impose** this same requirement on either AT&T or Cox. And the Arbitrator chose *Verizon's* proposed language implementing this requirement,

reasoning that "Verizon's proposed language measure[d] the relevant traffic in a manner consistent with WorldCom's proposed language," but was more complete. ***Arbitration Order*** ¶ 90. That language does not contain the requirement that Verizon now proposes. ***Id.*** ¶ 90. Verizon now seeks to "clarify" its own language by adding additional requirements that WorldCom did not agree to and that the Commission did not impose on any party, including AT&T or Cox. The Commission must reject this request. Verizon has already obtained more than it is entitled to and certainly enough to satisfy the requirements of relevant law.

Verizon's request that the Arbitrator "Clarify That WorldCom's Agreement To Establish Direct End Office Trunks At The DS-I Threshold Applies Even If WorldCom Establishes Physical Interconnection At A Single Tandem In The **LATA,"** Pet. for Recon. at 11, is disingenuous, at best. What Verizon seeks goes well beyond the establishment of direct end office trunks at the DS-1 threshold – a requirement to which WorldCom has agreed. Instead, Verizon now asks the Arbitrator to hold that when the single physical point ***of*** interconnection WorldCom establishes is at a tandem, WorldCom will establish direct trunks to all other tandems located in the same LATA. Far from being a minor "clarification," Verizon's proposal is merely an attempt to relitigate its failed GRIPs proposal. Indeed. the contract section Verizon asks the Arbitrator to "clarify" is that adopted in conjunction with Issue 1-1, which is the GRIPs issue, not Issue 1-4, which is the issue dealing with end office trunking.

As it has here, under Issue 1-1 Verizon asked that competitive LECs be required to establish multiple "interconnection points" in each LATA. The competitive carriers objected on the ground that this is squarelyprohibited by the FCC's rules, which

expressly allow competitive carriers to establish a single point of interconnection **per LATA.** They also explained that this would prevent competitive carriers from establishing an efficient network configuration, and would instead require their network to mirror the configuration of Verizon's network. ***See.*** *e.g.*, WorldCom Br. at 8-13; WorldCom Reply Br. at 4-5. The Arbitrator agreed with the competitive carriers, and adopted petitioners' proposed contract language, reasoning that it "more closely conforms to the Commission's current rules governing points of interconnection and reciprocal compensation than do Verizon's proposals." *Arbitration* ***Order*** ¶ 51.

Although it does not challenge this holding directly, Verizon mounts a collateral attack **on** the Commission'sdecision in the guise of a request **for a** clarification of a different issue – that related to end office trunking (Issue **1-4).** Thus, Verizon **asks** the Arbitrator to "clarify" that. although WorldCom may establish a single point of inrcrconnection per **LATA,** if WorldCom chooses to do so at a Verizon tandem it must also "configure its trunk groups to aim trunks at each Verizon tandem switch in the LATA. . . ." Pet. *for* Recon. at 11. Thus, Verizon seeks *to* require WorldCom to interconnect at each and every tandem in a **LATA.** This is plainly inconsistent with the Commission's ruling with respect to Issue I-1, and with the underlying legal regime that led the Commission to reject Verizon's position with respect to that issue in the first Instance. Accordingly, the Commission should summarily dismiss Venzon's request.

If, for any reason, **the** Commission believes this issue was not previously litigated and decided in conjunction with Issue I-1, **Verizon's request *must*** be dismissed as an attempt to inject a new issue into the proceeding. **There** is no question that the issue Verizon raises was not raised at any point during the arbitration with respect to end-office

trunking as evidenced by, among other things, the briefs filed by the parties and the Arbitrator's decision on this issue (all of which utterly fail to discuss this proposal). Nor was it included in contract language related to this issue – indeed the contract language that Verizon complains of is that adopted in paragraph 51 of the ***Arbitration Order*** – which involves the GRIPs issue. Verizon cannot now, in the guise of a request for reconsideration, attempt to shoehorn this issue into the end-office trunking language. **See pp.** 3 - 7, ***supra.***

In any event, Verizon's proposal is utterly flawed on the merits. Because it **is** economically efficient and rational for it to do so, WorldCom ***agreed*** to establish direct end-office trunking when traffic reaches a DS-I level threshold. The Commission declined to impose this same requirement on other competitive carriers, concluding that Verizon had not met its burden **of** proof on this issue. ***See Arbitration Order*** **¶ 89.** Given that Verizon has not even shown that direct end-office trunking is required, it plainly has not demonstrated that direct tandem trunking is required.

Indeed, the Arbitrator ***rejected*** the only argument Verizon did make regarding purported exhaust problems at tandem switches. Specifically, **Verizon** attempted *to* limit WorldCom's ability to connect to tandem switches to **240** ***trunks.*** The Arbitrator noted, however, that "Verizon's witness conceded that end office interconnection at the DS-I threshold would get Verizon '95 percent of the way' to solving **the** tandem exhaustion problems in Virginia, rendering the **240** tandem trunk cap superfluous." *Arbitration* ***Order*** ¶ 90 (internal citations omitted). The Arbitrator thus declined "to impose this restriction on WorldCom for such a marginal and speculative benefit. . . ." *Id.*

The requirement Verizon now seeks – that WorldCom connect *to* each and every tandem switch in a **LATA** if it picks a tandem switch as its point of interconnection – is even more unnecessary and superfluous than the rejected **240** *trunk* limit. Verizon's new proposal would require WorldCom Io connect to every tandem, **even** if traffic to any given tandem was ***de minimis.*** ***No*** record evidence indicates that this is necessary, or even that it would be useful. To the contrary, as WorldCom's witness Don Grieco explained, allowing WorldCom to connect to a single tandem frees up ports that would otherwise be used if WorldCom were **to** connect to multiple tandems. See Tr. 1622-1624. This configuration is also more efficient, because it allows a single trunk group to be utilized to carry traffic destined for one tandem that may be busy during the day, for example, while carrying traffic to another tandem that may be busy during the evening. *See id.* at 1624. And, of course, if sufficient traffic were destined to one end office, WorldCom would establish direct **trunking** to that office, removing such traffic from the tandem altogether.

As the record evidence demonstrates, this very architecture is used in other states, and it **works** well. ***See.*** *e.g.*, ***id.*** at 1624, 1635. That alone demonstrates that it is practical and technically feasible. But WorldCom's witnesses also explained precisely how it works, and why it is the most efficient use of resources. ***Id.*** at **1621** (explaining that Verizon's tandems are all linked,[4]); ***id.*** at 1622-23 (explaining architecture and the efficiencies that result); ***id.*** at 1624 (explaining that fewer trunk groups are needed pursuant ***to*** this type of architecture); ***id.*** (explaining **this is** used **successfully** with **other**

[4] **Indeed.** Verizon **itself** routes traffic From **a single tandem through other tandems, to any end office which** subtends **any** of the **multiple tandems in the arrangement See Verizon's August 19.2002 Industry Letter** ("*Industry Letter*") **(attached hereto as exhibit A) (available** online **at** http://128.11.40.241/east/wholesale/resources/master.htm).

LECs, and that tandems are capable of routing calls through other tandems to relevant end office); ***id.*** at **1635** (explaining that connecting with a single tandem eliminates trunking requirements at other tandems in a LATA).

Finally, Verizon's assertion that its "clarification" is necessary because the LERG lists no more than two routing points (the end office switch and the single tandem that thal end office subtends) for a particular NPA-NXX is wrong. The LERG currently can reflect a variety of routing options. Indeed, the *Industry Letter* provides a concrete example of the way in which a call destined for any of 21 different end offices can be routed through multiple tandems. That the LERG does not stand as an impediment to establishing a single POI at a tandem is merely confirmed by the fact that, as discussed above, WorldCom employs precisely this architecture in other parts of the country without problem.

For all these reasons, the Commission should reject Verizon's request to dramatically transform WorldCom's agreement to establish direct end-office trunking when traffic reaches a DS-I level into a requirement that WorldCom connect at every tandem in a **LATA.**

II. THE ARBITRATOR PROPERLY REJECTED VEFUZON'S ATTEMPT TO IMPOSE USE RESTRICTIONS ON WORLDCOM'S PURCHASE OF DEDICATED TRANSPORT (ISSUE IV-6).

This issue involves the situation in which WorldCom and Venzon jointly "provision . . . swilched exchange access services to IXCs. . . ." ***Arbitration Order*** ¶ 177. The Arbitrator correctly concluded that, in such circumstances, "Verizon should assess any charges for its access services upon the relevant IXC, not WorldCom." *Id.* No party appears to dispute this conclusion. The Arbitrator also held that WorldCom has the right

to purchase dedicated transport from Verizon as an unbundled network element to extend its facilities to the POI, and that Verizon may not place use restrictions on WorldCom's use of such elements. *Id.* This conclusion is not only in accord with, but is mandated by, governing law.

Venzon continues to insist, however, that if WorldCom purchases such an element, it may use it only to provide local service. If WorldCom intends to provision exchange access over such unbundled network elements, Verizon insists that WorldCorn should have to pay much higher rates for "access toll connecting hunks" for such a network element. Verizon's challenges to the Arbitrator's straightforward determinations largely represent a rehash of the argument it previously made, and properly lost.

First, Verizon repeats its assertion that WorldCom (the local exchange carrier) purchases Verizon's access services and thus should have to pay access rates for dedicated transport. ***See*** Pet. for Recon. at 11-13. This is wrong. WorldCom, as the local exchange carrier, *provides* access services to interexchange carriers – in this case jointly with Verizon. It never purchases access services. In particular, in a meet-point trunking arrangement, WorldCom provides access services to the IXC up to the point of interconnection, and Verizon provides access services from its side of the POI to the IXC As the Arbitrator correctly found, Verizon simply does not provide interexchange service to local exchange carriers, such as WorldCom. See *Arbitration Order* ¶ 177.

Given that, there is no question that the Arbitrator's decision was not only reasonable, it was the only one consistent with relevant law. Incumbent carriers such as Verizon have an obligation to provide unbundled network elements, including dedicated transport, in order for CLECs to provide ***any*** telecommunications service. 47 U.S.C.